

Copy in opinion

1955

October 28

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SEP 22 1998

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex
Concord, New Hampshire

CONCORD, N.H.

Re: Placement of children for adoption

Dear Mr. Barry:

You have inquired whether a child-placing agency, licensed by the State of Vermont, may place a child for adoption in this state. My answer to this question is in the negative unless the agency is also licensed by you pursuant to RSA 170:4.

RSA 170:16 states:

"Placing of Children. The parents, surviving parent, or guardian of a child under the age of sixteen, if unable to support it, may by an instrument in writing place such child in the commissioner's charge or in the charge of any licensed child-placing agency and if the commissioner or such agency considers such action for the public interest, they may receive such child and shall thereupon have its custody to the extent of the provisions of RSA 167:57."

The provisions of RSA 167:57 permit the commissioner to give any minor under his care to any suitable person for adoption. By these two sections the commissioner or a licensed child-placing agency may give up children in their care for adoption.

In order to define "licensed child-placing agency" it is necessary to look to the appropriate New Hampshire law as found in RSA 170. Thus a licensed child-placing agency is an agency, as defined in RSA 170:1, which is licensed by the commissioner of public welfare under RSA 170:4. Commissioner of public welfare can only mean the New Hampshire commissioner. Recognition of

Mr. James J. Parry, Commissioner

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a license issued in a foreign jurisdiction as compliance with the provisions of this chapter is something which would have to be clearly indicated by the legislature.

However, there is nothing in the chapter which indicates that a license may not be issued to a child-placing agency located without the state. Because of the nature of its activities the fact of its location would not make it any less amenable to the supervision of your department. I do not intend hereby to express any opinion respecting a child-caring agency in like circumstances.

I return the letter of October 19, 1955

from Judge Hardwick.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD/T
Enc.